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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

PALAZZO VINTAGE HOMES, LLC, an
Oregon Company, and PALAZZO VINTAGE
REPRODUCTION HOMES, LLC, an Oregon
Company

Plaintiffs,

v.

URBAN HOUSING DEVELOPMENT, LLC,
an Oregon limited liability corporation, and
CONCEPT DESIGN AND ASSOCIATES, an
Oregon business

Defendants.

Case No. Cv 09-1005-HU

**COMPLAINT FOR COPYRIGHT
INFRINGEMENT AND FALSE
DESIGNATION OF ORIGIN**

JURY TRIAL DEMANDED

Plaintiffs Palazzo Vintage Homes, LLC and Palazzo Vintage Reproduction Homes, LLC (collectively "Palazzo"), for their Complaint against Defendants Urban Housing Development, LLC ("UHD") and Concept Design and Associates ("Concept"), allege as follows:

JURISDICTION AND VENUE

1. This is a civil action seeking damages and injunctive relief for copyright infringement under the copyright laws of the United States (17 U.S.C. § 101 et seq.) and false designation of origin under the Lanham Act of 1946, as amended, (15 U.S.C. § 1051 et seq.).

2. This Court has original jurisdiction under 28 U.S.C. § 1331, 28 U.S.C. § 1338(a) and 15 U.S.C. § 1121(a).

3. Upon information and belief, the Defendants are engaged in conducting business in the state of Oregon in connection with the allegations of this lawsuit, causing injury to Palazzo in Oregon, and are subject to personal jurisdiction in this district.

4. Upon information and belief, the Defendants reside in Oregon for purposes of establishing venue under 28 U.S.C. § 1391(c), and venue is proper in this district under 28 U.S.C. § 1391(b)(1) and 28 U.S.C. § 1400(a).

5. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(2), because a substantial part of the events giving rise to the claims of this action occurred in Oregon.

THE PARTIES

6. Plaintiff Palazzo Vintage Homes, LLC is an Oregon company, with a principal place of business at 211 NE Weidler, Portland, Oregon 97232, USA.

7. Plaintiff Palazzo Vintage Reproduction Homes, LLC is an Oregon company, with a principal place of business at 211 NE Weidler, Portland, Oregon 97232, USA.

8. Palazzo specializes in designing and building high quality, green-certified vintage homes.

9. Upon information and belief, Defendant UHD is a company duly organized and existing under the laws of the State of Oregon, with a principal place of business at 6916 SE 85th, Portland, Oregon 97211, USA.

10. Upon information and belief, Defendant Concept is a business entity duly organized and existing under the laws of the State of Oregon, with a principal place of business at 2811 SE 159th Avenue, Portland, Oregon 97236, USA.

FIRST CLAIM FOR RELIEF

(Copyright Infringement)

11. Palazzo incorporates by reference the allegations contained in the preceding paragraphs.

12. Palazzo is, and at all relevant times has been, the sole owner of all exclusive rights under United States copyright law with respect to certain of its architectural works (collectively the "Copyrighted Works").

13. On March 4, 2009, Plaintiff Palazzo Vintage Reproduction Homes, LLC filed a copyright application for one of the Copyrighted Works entitled "Version 1.0 Four Square, Gable and Hip Roof, Icon Drawing No. 10006.14, (Built December, 2006)." This application was registered with the number VAu 992-405.

14. On July 31, 2009, Plaintiff Palazzo Vintage Homes, LLC filed a copyright application for another of the Copyrighted Works entitled "Quattro Quadro." This application was registered with the number VA 1-674-695.

15. Pursuant to 17 U.S.C. § 106, among the exclusive rights granted to Palazzo under United States copyright law are the right to reproduce the Copyrighted Works in copies embodied in both plans and constructed buildings, the right to prepare derivative works based

upon the Copyrighted Works, and the right to distribute copies of the Copyrighted Works by sale or other transfer of ownership.

16. Upon information and belief, in or about 2008 and/or 2009 Defendant UHD infringed the Copyrighted Works by constructing and/or selling a home located at 5918 NE 22nd Avenue in Portland, Oregon (hereinafter “the Accused home”), in violation of Palazzo’s exclusive rights. Upon information and belief, Defendant continues to construct and/or sell homes that infringe one or more of Palazzo’s Copyrighted Works.

17. Upon information and belief, in or about 2008 and/or 2009 Defendant Concept infringed the Copyrighted Works by creating plans for use in constructing the Accused home.

18. By reason of Defendants’ infringement and threatened infringement of Palazzo’s Copyrighted Works, Palazzo has sustained and will continue to sustain substantial injury, loss and damage to their ownership rights in the Copyrighted Works.

19. Palazzo is entitled to its actual damages and any additional profits of the Defendants that are attributable to Defendants’ infringement.

20. Defendants’ infringements were and are in willful and conscious disregard for Palazzo’s rights in and to the Copyrighted Works, and the resulting damage to Palazzo’s rights in the Copyrighted Works is such as to warrant increased damages in order to provide just compensation.

SECOND CLAIM FOR RELIEF

(False Designation of Origin)

21. Palazzo incorporates by reference the allegations contained in the preceding paragraphs.

22. Upon information and belief, Defendants claim to have authored the design of the Accused home, which constitutes a false designation of origin, in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

23. By reason of Defendants' acts complained of herein, Palazzo is entitled to the remedies provided for in 15 U.S.C. § 1116 *et seq.*

24. Defendants' acts complained of herein were and are in willful and conscious disregard for Palazzo's authorship rights in and to the Copyrighted Works, and the resulting damage to Palazzo's goodwill and reputation is such as to warrant the trebling of damages in order to provide just compensation.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs demand judgment as follows:

1. That Defendants have willfully infringed Palazzo's copyrights in the Copyrighted Works;

2. That Defendants have willfully violated Section 43(a) of the Lanham Act;

3. That Defendants, their directors, and officers, agents, servants, employees, and all other persons in active concert or privity or in participation with Defendants, be enjoined permanently from infringing the Copyrighted Works;

4. That Defendants, their directors, and officers, agents, servants, employees, and all other persons in active concert or privity or in participation with Defendants, be enjoined permanently from building, selling or marketing homes or home designs in any way that tends to deceive, mislead or confuse the public as to the authorship of the homes or home designs;

5. For an accounting against Defendants for an amount adequate to compensate for the infringement of Palazzo's copyrights, including actual damages suffered by Palazzo as

a result of Defendants' copyright infringement and profits by Defendants resulting from that infringement pursuant to 17 U.S.C. § 504(b), or in the alternative, enhanced statutory damages pursuant to 17 U.S.C. § 504(c);

6. For an accounting against Defendants for an amount adequate to compensate for Defendants' false designation of themselves as the origin of the Copyright Works, including actual damages suffered by Palazzo and profits by Defendants pursuant to 15 U.S.C. § 1117

7. An award to Palazzo of its reasonable attorney's fees and costs; and

8. For such other and further relief as the Court may deem just and proper.

JURY DEMAND

Plaintiffs hereby demand a trial by jury of all issues so triable.

Dated this 25th day of August, 2009.

Respectfully submitted,

KOLISCH HARTWELL, P.C.

By



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